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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,835	03/25/2004	Martin R. Prince	100.004.6	7946

7590 06/04/2007

Neil Steinberg
Suite 1150
2665 Marine Way
Mountain View, CA 94043

EXAMINER	
SMITH, RUTH S	

ART UNIT	PAPER NUMBER
3737	

MAIL DATE	DELIVERY MODE
06/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/809,835	PRINCE, MARTIN R.	
	Examiner	Art Unit	
	Ruth S. Smith	3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 March 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *25-44* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *25-44* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/27/07, 3/29/07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 25-44 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 6,278,892 in view of Evans III et al (5,806,519) or Uber III et al (5,840,026). Although the conflicting claims are not identical, they are not patentably distinct from each other because they involve an obvious broadening of the claimed limitations. The acquisition of data in the periphery of k-space after the initial data acquisition would have been obvious to one skilled in the art. Furthermore, the use of a monitoring unit would have been an obvious means for detecting the contrast agent in the region of interest and thereafter initiating collection of image data in view of Evans III et al or Uber III et al. Evans III et al and Uber III et al each disclose a display for allowing an operator to monitor the level of concentration in an area of interest.

Claims 25-44 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-66 of U.S. Patent No. 5,417,213 in view of Evans III et al (5,806,519) or Uber III et al (5,840,026). Although the conflicting claims are not identical, they are not patentably distinct from each other because the acquisition of data in the periphery of k-space after the initial data

acquisition would have been obvious to one skilled in the art. Furthermore, the use of a monitoring unit would have been an obvious means for detecting the contrast agent in the region of interest and thereafter initiating collection of image data in view of Evans III et al or Uber III et al. Evans III et al and Uber III et al each disclose a display for allowing an operator to monitor the level of concentration in an area of interest.

Claims 25-44 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-51 of U.S. Patent No. 5,553,619 in view of Evans III et al (5,806,519) or Uber III et al (5,840,026). Although the conflicting claims are not identical, they are not patentably distinct from each other because the acquisition of data in the periphery of k-space after the initial data acquisition would have been obvious to one skilled in the art. Furthermore, the use of a monitoring unit would have been an obvious means for detecting the contrast agent in the region of interest and thereafter initiating collection of image data in view of Evans III et al or Uber III et al. Evans III et al and Uber III et al each disclose a display for allowing an operator to monitor the level of concentration in an area of interest.

Claims 25-44 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-31 of U.S. Patent No. 5,746,208 in view of Evans III et al (5,806,519) or Uber III et al (5,840,026). Although the conflicting claims are not identical, they are not patentably distinct from each other because the acquisition of data in the periphery of k-space after the initial data acquisition would have been obvious to one skilled in the art. Furthermore, the use of a monitoring unit would have been an obvious means for detecting the contrast agent in the region of interest and thereafter initiating collection of image data in view of Evans III et al or Uber III et al. Evans III et al and Uber III et al each disclose a display for allowing an operator to monitor the level of concentration in an area of interest.

Claims 25-44 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-44 of U.S. Patent No. 5,762,065

in view of Evans III et al (5,806,519) or Uber III et al (5,840,026). Although the conflicting claims are not identical, they are not patentably distinct from each other because the acquisition of data in the periphery of k-space after the initial data acquisition would have been obvious to one skilled in the art. Furthermore, the use of a monitoring unit would have been an obvious means for detecting the contrast agent in the region of interest and thereafter initiating collection of image data in view of Evans III et al or Uber III et al. Evans III et al and Uber III et al each disclose a display for allowing an operator to monitor the level of concentration in an area of interest.

Claims 25-44 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,243,600 in view of Evans III et al (5,806,519) or Uber III et al (5,840,026). Although the conflicting claims are not identical, they are not patentably distinct from each other because the acquisition of data in the periphery of k-space after the initial data acquisition would have been obvious to one skilled in the art. The elimination of an element/step and its associated function would have been obvious. Furthermore, the use of a monitoring unit would have been an obvious means for detecting the contrast agent in the region of interest and thereafter initiating collection of image data in view of Evans III et al or Uber III et al. Evans III et al and Uber III et al each disclose a display for allowing an operator to monitor the level of concentration in an area of interest.

Response to Arguments

Applicant's arguments filed March 27, 2007 have been fully considered but they are not persuasive. The claims set forth in the patents include imaging at a point in time that the concentration of the contrast media is at a desired level. It would have been obvious to one skilled in the art to have used any known means for determining when the desired level of the concentration in the vessel of interest occurs, such as monitoring the levels as taught by Evan III et al or Uber III et al.

Conclusion

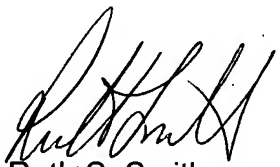
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth S. Smith whose telephone number is 571-272-4745. The examiner can normally be reached on M-F 7:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-4745.



Ruth S. Smith
Primary Examiner
Art Unit 3737

RSS